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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,660	09/17/2003	Edward J. Bailey JR.	033625-005	3800

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BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
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EXAMINER

D ADAMO, STEPHEN D

ART UNIT PAPER NUMBER

3636

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,660

Applicant(s)

BAILEY, EDWARD J.

Examiner

Stephen D'Adamo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by
Twisselmann (5,029,941).

Twisselmann discloses a seating system comprising a seating unit including a seat portion 30, an identical left and right stanchion 50 and 150 attached to the seat portion. Each stanchion includes a bottom member 52 having a first end 52a adapted to be secured to a surface and a second end 52b. Specifically, the first end is adapted to member 51, which is secured to the underside surface of the seat 30. Each stanchion also includes a second member 53 having a first end 53a adapted to be secured to the bottom member.

Twisselmann further discloses, "The supporting bars 50, 150 with the armrests 60, 160 are rigidly or detachably connected to the seat 30. Both supporting bars 50, 150 are transferable into the most widely varied and angular positions desired at any time" (col.3, lines 43-47); thus encompassing angular positions between 90 degrees and 180 degrees.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over
Twisselmann (5,029,941) in view of Scherbarth (5,207,791).

Twisselmann discloses a seating system comprising a seating unit including a seat portion 30, an identical left and right stanchion 50 and 150 attached to the seat portion. Each stanchion includes a bottom member 52 having a first end 52a adapted to be secured to a surface and a second end 52b. Specifically, the first end is adapted to member 51, which is secured to the underside surface of the seat 30. Each stanchion also includes a second member 53 having a first end 53a adapted to be secured to the bottom member. Twisselmann further discloses, "The supporting bars 50, 150 with the armrests 60, 160 are rigidly or detachably connected to the seat 30. Both supporting bars 50, 150 are transferable into the most widely varied and angular positions desired at any time" (col.3, lines 43-47); thus encompassing angular positions between 90 degrees and 180 degrees. However, Twisselmann fails to expressly disclose the mechanics used in rotating the stanchion to different angular positions. Yet, Scherbarth teaches of a stanchion in a "universal support" including a bottom member 44 and a second member 30 connected similarly to that disclosed by Twisselmann. Scherbarth also discloses the mechanics of the rotational device. The second end of the bottom member 44 includes a first hub 28 and the first end of the second member includes a second hub corresponding to the first hub of the bottom member. The first hub has "semi-spherical detent receiving recesses 66" while the second hub has "semi-spherical projecting detents 48". The detents 48 are seated within the recesses 66. Moreover, the bottom member 44 and

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second member 30 are secured relative to each other by a fastener 26 extending through apertures 46 and 64. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the mechanical pivoting of the stanchion with "cooperating detents angularly spaced around the pivot," as taught by Scherbarth, for providing "a positive lock" between the two bottom member and second member of each stanchion.

Claims 1 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thatcher et al. (3,343,870) in view of Twisselmann (5,029,941).

Thatcher discloses a stadium seating system comprising a seat and left and right stanchions attached to the seat portion. As disclosed in Figure 1, at least one of the stanchions for a single seating unit forms at least one of the stanchions for another seating unit adjacent the single seating unit. Furthermore, the bottom of stanchion of the first row of seats is different than the bottom stanchion of the second row of seats.

Specifically, the foot portion or bases 30 and 100 are different for securing the stanchions to different angled surfaces. However, Thatcher fails to teach of pivoting stanchions.

However, Twisselmann teaches of stanchions on the sides of a seating unit. The seating unit includes a seat portion 30, an identical left and right stanchion 50 and 150 attached to the seat portion. Each stanchion includes a bottom member 52 having a first end 52a adapted to be secured to a surface and a second end 52b. Specifically, the first end is adapted to member 51, which is secured to the underside surface of the seat 30. Each stanchion also includes a second member 53 having a first end 53a adapted to be secured to the bottom member. Twisselmann further discloses, "The supporting bars 50, 150 with

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the armrests 60, 160 are rigidly or detachably connected to the seat 30. Both supporting bars 50, 150 are transferable into the most widely varied and angular positions desired at any time" (col.3, lines 43-47); thus encompassing angular positions between 90 degrees and 180 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the stadium seating of Thatcher with pivoting stanchions, as taught by Twisselmann, for providing a seating unit which can be adapted to frequently changing sitting positions and arrangements.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lavender (5,547,257), Kerkham (5,470,128), Conner (4,850,159), Sutter (4,294,048), Piretti (3,762,765), Johnson (3,661,421), Brunskole (3,443,835), Wilkinson (3,041,034) and King (1,019,658) all show various features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 6:00-3:30, 2nd Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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July 23, 2004


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600